

**IN THE UNITED STATES DISTRICT COURT
FOR WESTERN DISTRICT OF PENNSYLVANIA**

CHRISTOPHER IRWIN,

CIVIL DIVISION

Plaintiff,

C.A. No. 04-246 Erie

-vs-

Magistrate Judge Susan Paradise Baxter

NURSE 1, NURSE 2, NURSE 3, WARDEN
WASHINGTON COUNTY
CORRECTIONAL FACILITY,
PATROLMAN RAYMOND, CHARTIERS
TWP. POLICE DPT.,

Defendants.

ANSWER AND AFFIRMATIVE DEFENSES TO AMENDED COMPLAINT

AND NOW comes the Defendants, NURSE 1, NURSE 2, NURSE 3, WARDEN
WASHINGTON COUNTY CORRECTIONAL FACILITY, by and through their attorney,
Edmond R. Joyal, Jr., Esquire and Law Office of Joseph S. Weimer and files the within Answer
and Affirmative Defenses.

ANSWER

1. Defendants deny any and all allegations contained within Plaintiff's
Complaint.

FIRST AFFIRMATIVE DEFENSE

Plaintiffs' Complaint fails to state a claim against the Defendants upon which
relief can be granted.

SECOND AFFIRMATIVE DEFENSE

The Defendants' actions conformed to all applicable laws and regulations at all times relevant hereto.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's Complaint is barred by the statute of limitations.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's cause of action is barred by the doctrines of collateral estoppel and/or *res judicata*.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff was not deprived of any right secured by the United States Constitution.

SIXTH AFFIRMATIVE DEFENSE

This court lacks jurisdiction over the subject matter of this action.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff failed to mitigate damages.

EIGHTH AFFIRMATIVE DEFENSE

This Defendant denies each and every other allegation, matter and averment made or contained in Plaintiff's Complaint not specifically and previously admitted herein.

NINTH AFFIRMATIVE DEFENSE

The Defendants assert all other defenses, immunities, and limitations of damages available to it under the Political Subdivision Tort Claims Act and avers that Plaintiffs' remedies, if any, are limited exclusively thereto.

TENTH AFFIRMATIVE DEFENSE

Defendants state that while it denies the allegations and averments made or contained in Plaintiff's Complaint, any and all acts or actions committed by its employees were discretionary in nature and taken in good faith.

ELEVENTH AFFIRMATIVE DEFENSE

Defendants reserve the right to plead and assert additional Affirmative Defenses when facts supporting said Affirmative Defenses become known and available.

TWELFTH AFFIRMATIVE DEFENSE

The Defendants plead each defense available to them pursuant to the Prison Litigation Reform Act and specifically claim that the plaintiff failed to exhaust his administrative remedies as required by it.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiff has failed to make adequate, sufficient and appropriate service of process on the defendants in this matter.

WHEREFORE Defendants deny any and all liability and demands that judgment be entered in its favor with costs and attorney fees.

DEFENDANT DEMANDS TRIAL BY JURY

LAW OFFICE OF JOSEPH S. WEIMER

BY: s/Edmond R. Joyal, Jr.
Edmond R. Joyal, Jr., Esquire
Pa. I.D. #65907
Attorney for Defendant, Washington
County Correctional Facility
Law Office of Joseph S. Weimer
975 Two Chatham Center
Pittsburgh, PA 15219
(412) 338-3184

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Answer and Affirmative Defenses has been served by First Class Mail, postage pre-paid, upon the following parties on this 21st day October, 2005.

Christopher Irwin
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10745 Route 18
Albion, PA 16475
(*Pro Se Plaintiff*)

Mark R. Lane, Esquire
Dell, Moser, Lane & Loughney
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Pittsburgh PA 15219
(*Counsel for Chartiers Twp. Police Dept.*)

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